

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF SUNNYVALE AMENDING CHAPTER 3.16 OF THE
SUNNYVALE MUNICIPAL CODE RELATED TO
TRANSIENT OCCUPANCY TAX PROCEDURES**

THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS
FOLLOWS:

SECTION 1. CHAPTER 3.16 AMENDED. Chapter 3.16 of the Sunnyvale Municipal Code is hereby amended by amending Section 3.15.040 to read as follows:

3.16.040 Imposition—Rate—Payment.

(a) For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of eight percent of the rent charged by the operator through June 30, 1995, and eight and one-half percent of the rent charged by the operator on or after July 1, 1995.

(b) Commencing January 1, 2007, and continuing through December 31, 2008, the amount of the tax shall be nine percent of the rent charged by the operator. Effective January 1, 2009, the amount of the tax shall be nine and one-half percent of the rent charged by the operator, provided, however, that the average citywide hotel/motel occupancy rate from January 1 through September 30, 2008, as determined by the Director of Finance, is at least sixty percent. If the average occupancy rate during this period is less than sixty percent, the increase in the amount of the tax shall be deferred until January 1, 2010. In any event, the amount of the tax on and after January 1, 2010, shall be nine and one-half percent of the rent charged by the operator.

(c) Said tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator or to the city. The transient, or any person paying rent on the transient's behalf, shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the tax administrator may require that such tax shall be paid directly to the tax administrator.

SECTION 2. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

Attachment B

SECTION 3. EXEMPTION FROM CEQA. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment.

SECTION 4. EFFECTIVE DATE. This ordinance shall be adopted, if approved, by a majority of the voters voting on the measure, at an election to be held November 8, 2005, and shall go into effect January 1, 2006, after the City Council has, by resolution, declared that the ballot measure was approved by a majority of voters voting thereon.

Introduced at a regular meeting of the City Council held on June ___, 2005, for submission to the voters at an election to be held on November 8, 2005, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

City Clerk
(SEAL)

Mayor

APPROVAL AS TO FORM AND LEGALITY:

David E. Kahn, City Attorney

Submitted to the voters and approved by a vote of _____ as declared by Resolution No. _____ of the City Council, dated _____, 2005.

As Mayor of the City of Sunnyvale, I do hereby approve the foregoing Ordinance this ____ day of _____, 2005.

Mayor